

**Basis for the Amendments to Claims**

Applicants have made minor changes to Claim 1 to correct minor errors in the claims, without adding any new subject matter.

### Information Disclosure Statement

Applicants acknowledge the statements of the USPTO in paragraphs 1 and 2 of the Office Action and acknowledge that disclosures from the potentially related applications, Serial No. 12/604,068 and 10/566,093, have been considered by the Examiner. Pursuant to the changes in the rules of the USPTO and recent court cases, Applicants do not believe any additional subject matter needs be filed with the USPTO in an Information Disclosure Statement.

### In the Drawings

The USPTO objected to Figures 1-3 and 9 as being photographs and required new drawings. Corrected drawing sheets are attached as Exhibit A. Accordingly, Applicants request that the objection of the drawings be withdrawn.

### Substantive Rejections

The USPTO rejected Claims 1, 8-19 and 22-28 under 35 U.S.C. §103 as being unpatentable Guillot, (U.S. Patent No. 5,464,112) in view of Nozawa, et al., (U.S. Patent No. 5,423,442) and further in view of Harrold, et al., (U.S. Patent No. 6,631,820). In

addition, the USPTO rejected Claims 2-4, 6 and 29 under 35 U.S.C. §103 as being unpatentable over Guillot in view of Nozawa, et al., and in view of Harrold, et al., and further in view of Sacherer, et al., U.S. Patent No. 4,834,234. Finally, the USPTO rejected Claim 7 under 35 U.S.C. §103 as being unpatentable over Guillot in view of Nozawa, et al., and further in view of Harrold, et al. and Sacherer, et al., and further in view of Taskis, et al. (U.S. Patent No. 5,894,949). Applicants respectfully traverse each rejection of the claims of the Application.

The primary basis for the rejection of the claims of the Application are the disclosures from a combination of Guillot in view of Nozawa, et al. Note particularly the discussion on pages 6-7 of the Office Action of the additional elements allegedly taught by the disclosure of Nozawa, et al. Applicants respectfully traverse the determination of the USPTO and assert that significant distinctions between the invention, as claimed in Claim 1, and the asserted disclosure of these references. These differences include at least the following:

1. On page 6 of the Office Action the USPTO asserted that the distinct hinges of the "connection means" comprise film hinges, which are shown on Figure 5 of Nozawa, et al. Note that element c) in Claim 1 requires a connecting means "...wherein the two distinct hinges comprise film

hinges, each of which is formed of two parts forming brackets joined together by polymer film acting as an axis of rotation...". In contrast, the hinge (10) shown on Figure 4 of Nozawa, et al. is simply a partial loop of connecting material. There is no identifiable polymer film joining opposed brackets, as required by Claim 1.

2. Element e) of Claim 1 requires a "mechanical assistance means for opening and closing and controlling the amplitude of the opening angle of the sealing means..."

In contrast, the cover (5) of Figure 5 of Nozawa, et al. is openable in an uncontrolled amplitude way as the elastic band (12) allows the cover (5) to be opened to an angle in which the cover actually contacts the body (1). Accordingly, the elastic band (12) provides no "opening angle amplitude control mechanism", as required by element e) of Claim 1.

3. In addition, Claim 1 requires that the "mechanical assistance means" include a section provided "in the form of a bracket,..." to be connected to the stopper cap and the attachment ring through respective film hinges. The USPTO identifies portions 12a and 12b of the elastic band (12) of Nozawa, et al. as film hinges. These elements do not provide distinct hinges nor do they function as "film

hinges" relative to the remaining portion of the elastic band that is required to form a bracket according to Claim 1.

Accordingly, even if the structure of Nozawa, et al. is incorporated into Guillot, the unique "connection means" and the unique "mechanical assistance means" elements of Claim 1 are not disclosed. The advantages of these features are described in paragraphs 117, 123 and 128. Neither Guillot nor Nozawa, et al. describe the features claimed for achieving the advantages of providing a device for leak-tight sealing of packaging containers. Based on the presence of these elements, the stopper cap is openable and closable, in an amplitude controlled way, so as to allow one-handed operation, while the unique connection means and mechanical assistance means configurations allow a good feel to the opening and closing operations.

The USPTO further asserts on page 7 of the Office Action that Harrold, et al., in combination with Guillot and Nozawa, et al., disclose a first opening tamper resistance means, a peripheral series of connecting micro-dots or a peripheral strip to be torn off, or a combination of these two means placed between the sealing means and the assembly means so that a lower peripheral surface of the sealing means is joined to an upper peripheral surface of the assembly means. To support this

assertion, the USPTO relies on the disclosure at Col. 5, lines 42-49 of a frangible bridge (97), as shown in Figures 3 and 4, that is integrally connected between the skirt (40) and the downward projecting locking ring (92). In contrast, the tamper resistance means of Claim 1 is provided for the purpose of tamper resistance with respect to the male-type stopper cap and assembly. The male-type stopper cap is able to open and close about a connection means formed between them. It is important to note that the frangible bridges (97) of Harrold, et al. do not serve this function, as can be seen in Figure 11. The lid part (38) is openable with respect to a closure body skirt (40), but the frangible bridges do not connect these two members. Instead, the frangible bridges (97) connect the skirt and the lower locking ring (92). Thus, Harrold, et al. do not provide any teaching of a peripheral series of connecting micro-dots or a peripheral strip to be torn off that connects a lower peripheral surface of a male-type stopper cap and an upper peripheral surface of an assembly ring.

Applicants specifically note the comments of the USPTO in the Response to Arguments section of the Office Action on page 19. In that Response the USPTO asserted that, "Applicant argues that the amended Claim 1 teaches a device that is molded in closed configuration." The Office Action disagrees with this analysis

and asserts that "[t]he Examiner respectfully disagrees since this feature is not explicitly recited in the claims." Applicants respectfully assert that Claim 1 requires this feature in claim element "d)" that claims a "first opening tamper resistance means". This tamper resistance means comprises "a peripheral series of connecting micro-dots or a peripheral strip to be torn off, or a combination of these two means placed between the sealing means and the assembly means...". In addition, note in the preamble of Claim 1 that the device is required to be made of "thermoplastic polymer materials". Taken together these claimed features implicitly require an integral connection of the assembly ring and the stopper-cap. The dots or tear strips are claimed in an unbroken configuration so that the device must be manufactured in a closed condition in which the micro-dots or the tear off strip must be broken to open the device. In order to permit such a configuration to be manufactured by injection molding, the claimed offset of the film hinges is provided. This feature is nowhere taught by Nozawa, et al. in combination with Guillot or Harrold, et al. The modifications suggested by the USPTO to add the frangible bridges 97 of Harrold, et al. between the body 1 and cover 5 is impossible to manufacture, as a skilled person would appreciate. In addition, the structure of Nozawa, et al. cannot be made of thermoplastic materials in a closed

configuration with frangible bridges connecting the closed configuration, as suggested by the USPTO. A person skilled in the art would recognize from a technical perspective that the manufacture of this structural aspect of the invention is simply not possible from the disclosures cited. Accordingly, this important feature is also not disclosed by the references, as cited.

Accordingly, Applicants assert that at least these elements of the invention, as claimed in Claim 1, are clearly not disclosed by Guillot, Nozawa, et al., or Harrold, et al. alone or in combination. As these three references form the basis for the rejection of Claim 1 of the Application and all remaining claims of the Application, Applicants respectfully assert that all remaining claims of the Application are patentable over the disclosures of the cited references.

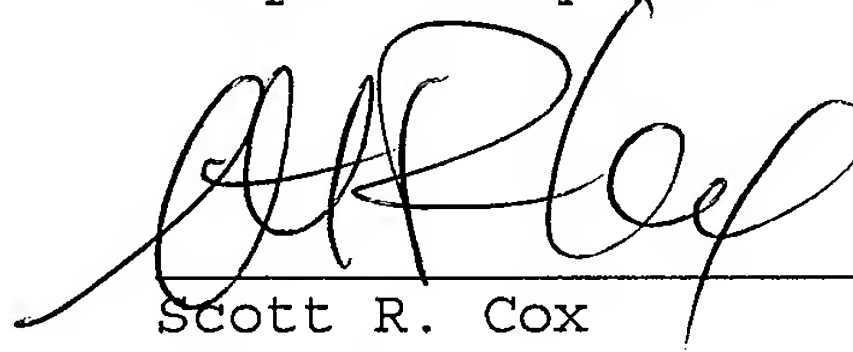
In addition, as Applicants have not made any substantive amendments to the claims, but have merely pointed out distinctions between the subject matter, as claimed, and the references cited, Applicants request that the finding of finality be withdrawn.



CONCLUSION

As all claims of the Application are distinctive over the references cited, Applicants request issuance of a Notice of Allowance. If there are any questions concerning this Amendment, please contact Applicants' counsel.

Respectfully submitted,



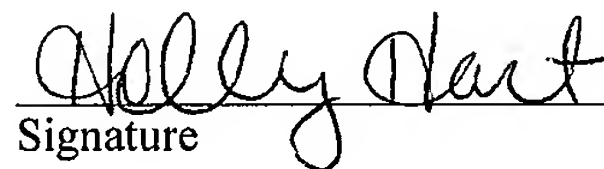
\_\_\_\_\_  
Scott R. Cox  
Reg. No. 31,945  
Customer No. 68072  
LYNCH, COX, GILMAN & GOODMAN, P.S.C  
500 West Jefferson Street, Ste. 2100  
Louisville, Kentucky 40202  
(502) 589-4215

Date: February 2, 2012

**CERTIFICATE OF EFS SUBMISSION (37 C.F.R. § 1.8(a)(i)(1)(C))**

I hereby certify that, on the date shown below, this correspondence is being submitted to the Patent and Trademark Office via the Office Electronic Filing System in accordance with § 1.6(a)(4).

Date: February 2, 2012

  
\_\_\_\_\_  
Signature

## Exhibit A